

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHILIPS AMADOR, *et al.*,

Plaintiffs,

-v-

MORGAN STANLEY & CO. LLC, *et al.*,

Defendants.

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No. 11-cv-4326 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

Now before the Court is Plaintiffs' unopposed motion for preliminary approval of a settlement of a putative class and collective action by Philips Amador, Sylvester Cetina, and Joann Sunkett (collectively referred to as "Named Plaintiffs"), on behalf of themselves and all others similarly situated, and Defendants Morgan Stanley & Co., LLC, F/K/A Morgan Stanley & Co., Incorporated, Morgan Stanley Smith Barney LLC, and Morgan Stanley (collectively referred to as "Defendants"). The Court has considered the Joint Stipulation of Settlement and Release ("Stipulation"), and its attached exhibits, and the submissions of counsel, and hereby finds and orders as follows:

1. Unless otherwise defined herein, all terms used in this Order (the "Approval Order") will have the same meaning as defined in the Stipulation.
2. The Court has jurisdiction over the subject matter of this action, Named Plaintiffs, the FLSA Collective Members, the New York Class Members, and Defendants.

3. The Court finds on a preliminary basis that the settlement memorialized in the Stipulation, filed with the Court, falls within the range of reasonableness and, therefore, meets the requirements for preliminary approval.

4. The Court grants preliminary approval of the parties' Stipulation.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court conditionally certifies, for settlement purposes only (and for no other purpose and with no other effect upon this or any other action, including no effect upon this action should the Settlement not ultimately be approved), the following class (the "New York Class"): All individuals who were employed by Defendants in New York as a CSA at any time during the Covered Period.

6. The Court appoints, for settlement purposes only, Plaintiff Sylvester Cetina as representative of the New York Class.

7. The Court appoints, for settlement purposes only, the following attorneys as "Class Counsel" for the New York Class: Seth R. Lesser and Fran Rudich of Klafter, Olsen & Lesser, LLP and Gregg I. Shavitz and Susan Stern of Shavitz Law Group, P.A.

8. The Court approves Garden City Group ("GCG") as the Claims Administrator to perform duties in accordance with the Stipulation.

9. The Court finds that the procedures for notifying the New York Class Members and FLSA Collective Members about the Settlement as described in the Stipulation provide the best notice practicable under the circumstances and therefore meet the requirements of due process, and directs the mailing of the Notices and Claim Form in accordance with the Stipulation.

10. The Court approves, as to form and content, the proposed Notices (attached to the Stipulation as Exhibits D, E and F), as revised by the Court, and the proposed Claim Forms (attached to the Stipulation as Exhibits B-1 and B-2). The Claims Administrator is authorized to mail those documents, after they are updated with the appropriate dates and deadlines consistent with the Stipulation, to the New York Class Members and FLSA Collective Members as provided in the Stipulation.

11. Any written objection to the settlement by a Qualified New York Class Member must be filed with this Court no later than the Claim Form Deadline.

12. Pending the Court's decision on final approval of the Settlement and entry of the Court's Final Order and Judgment, Plaintiffs, all New York Class Members, all FLSA Collective Action Members, and anyone acting on behalf of any of them shall be barred and enjoined from: (a) further litigation in this Lawsuit; (b) filing, or taking any action directly or indirectly, to commence, prosecute, pursue or participate on a class or collective action basis any action, claim or proceeding against Defendants in any forum in which any of the claims subject to the Settlement are asserted, or which in any way would prevent any such claims from being extinguished; or (c) seeking, whether on a conditional basis or not, certification of a class or collective action that involves any such claims.

13. In the event that the Effective Date as defined in the Stipulation does not occur, the Settlement and the Stipulation shall be deemed null and void and shall have no effect whatsoever, other than Section 2.11 of the Stipulation, the allocation of settlement administration expenses in Section 2.1, the non-disclosure provisions in Section 3.12, and the non-admission provisions in Section 3.11, which shall remain in effect. In such case, nothing in the Stipulation

or this Order shall be relied upon, cited as, constitute evidence of, or constitute an admission that class or collective action certification is or may be appropriate in this action or any other matter.

14. The parties are ordered to carry out the Settlement according to the terms of the Stipulation.

15. The Court will conduct a Fairness Hearing on December 19, 2014 at 10:00 a.m. in Courtroom 905 of the Thurgood Marshall Courthouse for the purposes of: (a) making a final determination as to certification of the class pursuant to Rule 23 and of the fairness, adequacy, and reasonableness of the Settlement terms and procedures; (b) fixing the amount of attorneys' fees and litigation costs and expenses to Class Counsel and enhancement awards to Named Plaintiffs and Enhancement Award Plaintiffs; (c) hearing any timely and properly filed objections; and (d) entering Judgment. The Fairness Hearing may be continued without further notice to the New York Class Members and FLSA Collective Members. Plaintiffs shall file their motion for final approval of the settlement of the New York Class claims, and Class Counsel shall file their motion for attorneys' fees, litigation costs and expenses, and enhancement awards on or before December 5, 2014.

SO ORDERED.

Dated: August 20, 2014
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE